

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

AMADO BRITO,

Plaintiff,

v.

**9:02-CV-1410
(FJS/RFT)**

**SUPERINTENDENT HOLLINS, Oneida
Correctional Facility; BURGE, Superintendent,
Auburn Correctional Facility; H. MOSS,
Correctional Officer at Oneida Correctional
Facility; AMINA AHSAN, Facility Health
Services Director at Auburn Correctional
Facility; and ANN DRISCOLL, Acting Nurse
Administrator at Auburn Correctional
Facility,**

Defendants.

APPEARANCES

OF COUNSEL

**AMADO BRITO
01-R-0878**

Shawangunk Correctional Facility
P.O. Box 700
Wallkill, New York
Plaintiff *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**
615 Erie Boulevard West, Suite 102
Syracuse, New York 13204
Attorneys for Defendants

ED J. THOMPSON, AAG

SCULLIN, Senior Judge

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

Plaintiff Amado Brito commenced this action alleging deprivations of his constitutional

rights arising from his alleged assault and failure to receive adequate medical treatment for injuries he incurred during the assault. *See* Dkt. No. 1. A trial was held before this Court on November 6, 2006, through November 8, 2006. On November 8, 2006, the jury returned a verdict in favor of Defendants. *See* Dkt. No. 99. The Court entered judgment in favor of Defendants against Plaintiff on November 15, 2006, in accordance with the jury verdict. *See* Dkt. No. 101. Plaintiff has appealed from the November 15, 2006 judgment to the Second Circuit Court of Appeals. *See* Dkt. No. 102.

Currently before the Court are Plaintiff's requests to proceed with his appeal *in forma pauperis* and for free transcripts of the trial-court proceedings that form the basis of his appeal. *See* Dkt. No. 108.

II. DISCUSSION

A. Plaintiff's *in forma pauperis* application

The Court previously allowed Plaintiff to proceed *in forma pauperis* in this action,¹ and the Court has not revoked his *in forma pauperis* status. Therefore, the Court **grants** Plaintiff's request to proceed with this matter *in forma pauperis* for purposes of his appeal to the Second Circuit.

B. Plaintiff's request for free transcripts

Section 753 of Title 28 of the United States Code provides, in pertinent part, that

[f]ees for transcripts furnished in other proceedings to persons

¹ *See* Dkt. No. 4.

permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.

28 U.S.C. § 753(f).

After reviewing the file in this matter, the Court finds that Plaintiff's appeal is not frivolous and that Plaintiff is entitled to a copy of the trial transcripts without cost.

III. CONCLUSION

After carefully reviewing the entire file in this matter and the applicable law and for the reasons stated herein, the Court hereby

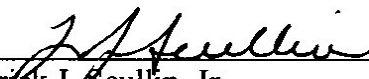
ORDERS that Plaintiff's request to proceed with the appeal of this matter *in forma pauperis* is **GRANTED**;² and the Court further

ORDERS that Plaintiff's request for free trial transcripts is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: October 22, 2007
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge

² The Court notes that it grants this application subject to the Second Circuit collecting the fees due to it in light of the Prison Litigation Reform Act. *See* Pub. L. No. 104-134, 110 Stat. 1321.